

NOT TO BE PUBLISHED

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Siskiyou)

----

In re J.M., a Person Coming Under the  
Juvenile Court Law.

SISKIYOU COUNTY HUMAN SERVICES  
DEPARTMENT,

Plaintiff and Respondent,

v.

K.A.,

Defendant and Appellant.

C060581

(Super. Ct. No.  
SCSCJVSQ055029501)

K.A., the mother of J.M., appeals from the juvenile court's orders terminating parental rights and freeing J.M. for adoption. (Welf. & Inst. Code, §§ 366.26, 395 [all further statutory references are to this code].) She contends that three statutory exceptions to adoption apply: the exception where a minor 12 years old or over objects to adoption, the beneficial parent-child relationship exception, and the sibling relationship exception. We affirm.

## FACTUAL AND PROCEDURAL BACKGROUND

### Proceedings in 2005 and 2006

On July 25, 2005, Siskiyou County Human Services Department (the Department) filed a section 300 petition as to J.M., aged nine, and his brother Ja.M., aged 10, alleging that K.A. could not provide adequately for them due to emotional and mental health problems.<sup>1</sup>

On August 8, 2005, at the jurisdictional hearing, the juvenile court found the allegations of the petition true. On September 19, 2005, at the dispositional hearing, the court found the minors to be dependents of the court and ordered reunification services for K.A.

On December 14, 2005, the Department reported pursuant to section 387: (1) K.A. had made minimal efforts to stay in contact with the Department; she had not made herself available from early September until November, when she appeared in court, and the Department still did not know her whereabouts. (2) The minors had gone through multiple joint placements, but were too difficult to control when placed together. (3) J.M. was now in

---

<sup>1</sup> The petition alleged that the minors were subject to a legal guardianship established by their maternal grandmother, J.B., who had agreed to provide day-to-day care for them, but had failed to do so. As of July 21, 2005, the minors were still living with K.A. in unacceptable conditions and exhibited extremely poor behavior control.

The minors' father, L.M., whose last known address was in Southern California, has never been involved in these proceedings.

the foster home of J.G., while Ja.M. was in a group home. Ja.M. had visited in J.G.'s home, but J.G. felt she could not take him in because his emotional and psychological needs were too great. Foster care placement was appropriate for J.M.; group care placement was appropriate for Ja.M. (4) Despite K.M.'s lack of contact with the minors and the Department, reunification services for her should continue.

On December 20, 2005, the Department stated in its six-month review report (which incorporated the section 387 report by reference): K.A. had failed to participate regularly and make substantive progress in court-ordered treatment programs. She had not participated in counseling and a money management course. She had made minimal contact with the Department. She had not adequately addressed her mental health problems. A psychological evaluation needed to be done. Although her progress had been minimal, reunification services and visitation should continue.

At the six-month review hearing on January 23, 2006, the juvenile court continued the minors' placement orders and K.A.'s reunification services in effect.

In its 12-month review/permanency planning report, filed on June 7, 2006, the Department stated: (1) K.A. had reestablished contact with the minors as of May 2006; she was genuinely concerned about their well-being and contact with them was very important to her. (2) She still needed to participate in a psychological evaluation and a money management course. (3) The minors lived separately, but were closely bonded; they saw each

other about once a month. Ja.M. loved contact with his family. (3) Ja.M. still had psychological problems, including self-isolation and the habit of conversing publicly with an imaginary friend, but was improving in his group home placement. (4) J.M. fit in well in his foster home and had a significant bond with his foster mother; he had also recently resumed visitation with K.A., which he thoroughly enjoyed. (5) Despite the bonds among the family members, because K.A. had failed to participate in reunification efforts, it was recommended that her services be terminated.

At the 12-month review hearing on June 19, 2006, the juvenile court terminated K.A.'s reunification services, while continuing the existing placement orders. The court ordered visitation for K.A. at least once a month, with additional visits in the Department's discretion. Finally, as the permanent plan, the court ordered legal guardianship with the minors' grandmother, J.B., their present legal guardian.

In its section 366.26 report, filed on October 19, 2006, the Department recommended different permanent plans: legal guardianship for J.M. with his foster mother J.G., and a less restrictive group home placement for Ja.M., who suffered from Asperger's syndrome and "Schizophrenia/other psychotic disorder." Adoption was not recommended for J.M. because he did not want it, due to his still significant bond to his birth mother. The brothers' most recent visit had gone very well. K.A.'s whereabouts were still uncertain and she had not been reachable by telephone, although she had left a message that she

would appear at the upcoming section 366.26 hearing and would prove that she could now handle her own finances.

At the section 366.26 hearing on November 6, 2006, the juvenile court ordered the recommended permanent plans for the minors. K.A. did not appear, and her counsel said he had had no contact with her.

At the status review hearing on December 18, 2006, the juvenile court formally appointed J.G., J.M.'s foster mother, as his legal guardian and terminated dependency and juvenile court jurisdiction as to him.

Proceedings in 2008

*The Department's new recommendation*

On May 14, 2008, the Department filed a JV-180 petition (request to change court order), stating that J.M. now wanted adoption. The Department asked the juvenile court to resume J.M.'s dependency, to set a new section 366.26 hearing, and to refer the matter for a new adoption assessment.

At a hearing on May 19, 2008, K.A., who was present along with her counsel, objected to the petition. The juvenile court put the matter over to June 2, 2008.

At the June 2, 2008, hearing, K.A.'s counsel represented that she continued to object to the petition.<sup>2</sup> The juvenile court appointed counsel for J.M.'s guardian, J.G., continued the

---

<sup>2</sup> The minors' grandmother and former legal guardian, J.B., also objected through counsel and requested party status. The juvenile court deferred ruling on the request.

matter to June 16, 2008, and calendared a section 366.26 hearing for September 8, 2008.

At the June 16, 2008, hearing, the juvenile court denied the request of the grandmother's counsel for de facto parent status. However, acknowledging the biological family's concern that adoption would cut J.M.'s ties to them, the court made clear that if it ordered adoption, it would require continued contact with the family. J.G.'s counsel said his client favored such contact.<sup>3</sup>

In its section 366.26 report, filed on August 27, 2008, the Department stated: (1) J.M. decided in April 2008 that he wanted J.G. to adopt him. He had talked about it with K.A.; according to him, she had said she was glad he would be in a "'real'" family. He wanted the court to "'hurry [the adoption process].'" (2) K.A. told the Department that J.M. wanted to be adopted because he was promised more visits with her if he were adopted. (3) J.M. saw K.A. about once a month and spoke to her frequently by telephone. He saw other members of his extended family two or three times a year. (4) Ja.M. was now in a group home in another county. He and J.M. had visited each other twice recently, but visits were harder to arrange during the school year. J.G. would continue to help J.M. visit family members after the adoption was finalized. (5) Because J.M. had

---

<sup>3</sup> Counsel for K.A. and J.M. raised concerns about J.G.'s willingness to arrange visitation and to allow J.M. to be interviewed. At a subsequent hearing, however, these concerns were apparently alleviated.

asked J.G. (with whom he had a very good relationship) to adopt him, and J.G. would continue to arrange visits with his biological family, the Department recommended terminating K.A.'s parental rights as to J.M. and placing him for adoption with J.G.

*The section 366.26 hearing*

*Evidence*

The contested section 366.26 hearing took place on October 10, 2008. The juvenile court heard testimony from J.M., social worker Tina Montgomery, J.G., and K.A., and received a stipulation as to the testimony Ja.M. would have given if called as a witness.

In a chambers session, J.M. testified: He is 12 years old, in seventh grade, and doing well. He lives with J.G. and two other minors on her farm; he helps out on the farm and enjoys it. He wants to go on living there. J.G. cares for J.M., listens to him, and understands him; he likes her a lot. He wants to get adopted by J.G. "soon" and has no doubts about it; he wants to feel like part of the family.

K.A.'s counsel asked: "[K.A.] expressed to me that she thought that in your conversation with her you said the reason you want to be adopted is because [J.G.] would then allow you to have more visits with your mother. Is that true?" J.M. answered: "No." Counsel asked if J.M. had talked to K.A. about visiting with her after adoption; J.M. again said, "No." J.M. said he understood he would still be able to see K.A. and Ja.M.

once he was adopted, and that J.G. would still be his legal guardian even if he were not adopted.

Asked about visitation, J.M. testified that he does not know when he will next visit Ja.M., but plans to go on seeing him after adoption; however, he does not miss seeing Ja.M. more often and does not confide in him. K.A. visits once a month; they meet at the YMCA in Yreka and "just play and mess around." This schedule is all right with J.M. He believes it will continue after adoption. K.A. had not told him he would have more visits with her if he were adopted. J.G. has always made it easy for him to visit family members.

Social worker Montgomery, who prepared the section 366.26 report, testified that the Department recommended adoption because J.M. had contacted someone from the state adoption services bureau: "[J.M.] was the one who started this." J.G. had told Montgomery that she would facilitate K.A.'s visitation after adoption "[a]s long as she feels it is in the best interest of [J.M.]." Montgomery believed J.G. because she already had an adopted child in her home who saw his biological family regularly.

J.G. testified that she contacted the state adoption services bureau because J.M. had asked her several times about being adopted. When Montgomery learned of this, she said she would have to meet with J.M. After this meeting, J.M. told J.G. that he had told Montgomery his mother had said she was glad he would be in a real family.



J.G. testified further that she has had J.M. in her home for three years and has been his legal guardian for two years. She has tried to arrange monthly visits for K.A. Logistics had complicated visitation between J.M. and Ja.M., but she would like them to see each other more often. She is trying to work out a way for multiple family members (K.A., Ja.M, and J.M.'s cousins) to come up together the first Friday of each month. Visits with Ja.M. usually take place at some halfway meeting point. Visits with K.A. took place at a restaurant or the YMCA. Once J.M. is adopted, it will have no effect on visitation with K.A. because J.G. has encouraged him to keep seeing her; J.G. likes K.A. a lot and wants them to keep meeting in a safe structured environment like the YMCA.

K.A. testified that she has an apartment and is looking for work. She had told J.M. it was okay to like J.G. and stay with her temporarily, but only because she had promised she would never try to adopt him. Although K.A. has been told by J.M. that she will have more visits with him after he is adopted, she does not believe it "based on the previous visits that I've had." She has no way to get to J.G.'s house because she does not have a car and the bus does not go all the way there.

K.A. feels J.M. is her child and needs to be home with her. She is concerned about his spiritual growth because he has told her he has not been in church for three years. She does not know whether she would want J.G. to continue as his legal guardian if the adoption does not go through.

Counsel stipulated that if called as a witness, Ja.M. would testify that he opposes the adoption because he fears losing contact with J.M. and wants him to remain part of Ja.M.'s family.

*Argument*

The Department asserted that no substantial evidence supported any exception to adoption.

K.A.'s counsel asserted that nothing presented to the juvenile court would justify the "drastic step" of terminating parental rights and ordering adoption. Denying adoption would not prejudice J.M. because his legal guardianship served his needs. K.A. had improved her situation and now deserved more time to show she could resolve her problems and regain custody of J.M.

J.G.'s counsel asserted K.A. had not shown that either the beneficial parent-child relationship exception to adoption or the sibling relationship exception applied. In particular, K.A. had not proven that she occupied so significant a place in J.M.'s life that it would be detrimental to J.M. to terminate the parent/child relationship.

J.M.'s counsel asserted that given the statutory preference for adoption as a permanent plan, it would be detrimental to J.M. not to order it. His psychological and emotional needs would be met by going through with the adoption, and there was no evidence that it would substantially interfere in his relationship with Ja.M.

The grandmother's counsel opposed adoption on the ground that J.G. had frustrated visitation with K.A. and the rest of the extended family.

#### *Ruling*

The juvenile court found and ruled: Although K.A.'s situation is very sympathetic, J.M. clearly wants adoption and the law at this point strongly favors it. Therefore, it can be denied only if there is a compelling reason to find that the termination of K.A.'s parental rights would be detrimental to J.M. Under this standard, the fact that J.M. would benefit from continuing his relationship with K.A. is insufficient. J.M.'s sibling relationship with Ja.M. is not that close, and J.M. has made clear that any possible effect on it is not enough to deter him from seeking adoption; in any event, it is clear that contact with Ja.M. will continue after adoption. For these reasons, the court would adopt the orders recommended by the Department.

The juvenile court thereafter terminated K.A.'s parental rights and ordered adoption as the permanent plan for J.M., with J.G. designated as the prospective adoptive parent.

#### DISCUSSION

K.A. contends that three separate exceptions to adoption applied: the beneficial parent-child relationship exception, the sibling relationship exception, and the exception where a 12-year-old minor objects to adoption. She acknowledges that her trial counsel did not raise the second and third exceptions, but asks us to find counsel ineffective for failing to do so.

We note independently that counsel's closing argument at the selection and implementation hearing did not even expressly invoke the beneficial parent-child relationship exception; however, counsel impliedly invoked that exception by arguing that K.A. should get more time to resolve her problems and regain custody of J.M., since whether K.A. resolved her problems mattered to these proceedings only if her parent-child relationship with J.M. was so strong that it would be detrimental to him to terminate that relationship.

We first address K.A.'s contention as to the beneficial parent-child relationship exception (§ 366.26, subd. (c)(1)(B)(i)), since that contention was not only raised below (at least by implication) but also has the most substance. We thereafter address her other contentions. We conclude they all lack merit.

## I

At the selection and implementation hearing (§ 366.26), a juvenile court must choose one of the alternative permanent plans provided by statute. The Legislature's preference is for adoption. If the court finds a minor adoptable and no circumstances would make the termination of parental rights detrimental to the minor, the court must terminate parental rights. (*In re Ronell A.* (1996) 44 Cal.App.4th 1352, 1368.) The parent has the burden of establishing an exception to termination of parental rights. (Cal. Rules of Court, rule 5.725(e)(3); *In re Zachary G.* (2000) 77 Cal.App.4th 799, 809 (*Zachary G.*)). On appeal, we uphold a juvenile court's ruling

declining to find an exception to termination of parental rights if supported by substantial evidence. (*Zachary G.*, *supra*, 77 Cal.App.4th at p. 809.)

For a parent to meet her burden as to the beneficial parent-child relationship exception, it is not enough simply to show "some benefit to the child from a continued relationship with the parent, or some detriment from termination of parental rights." (*In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1349 (*Jasmine D.*); *Zachary G.*, *supra*, 77 Cal.App.4th at p. 811.) Nor is "frequent and loving" contact sufficient to overcome the preference for adoption; there must also be a "'significant, positive, emotional attachment'" between parent and child. (*In re Beatrice M.* (1994) 29 Cal.App.4th 1411, 1418-1419 (*Beatrice M.*), quoting *In re Autumn H.* (1994) 27 Cal.App.4th 567, 575 (*Autumn H.*)). Even a strong positive bond with a parent may be insufficient to defeat adoption if a child looks to a prospective adoptive parent to meet his or her needs. (*Zachary G.*, *supra*, 77 Cal.App.4th at p. 811.) "Because a section 366.26 hearing occurs only after the court has repeatedly found the parent unable to meet the child's needs, it is only in an extraordinary case that preservation of the parent's rights will prevail over the Legislature's preference for adoptive placement." (*Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1350.) For a continuing parent-child relationship to prevail over the preference for adoption, "the relationship [must] promote[] the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new,

adoptive parents.” (*Autumn H.*, *supra*, 27 Cal.App.4th at p. 575; see also *In re S.B.* (2008) 164 Cal.App.4th 289, 297 (*S.B.*); *Beatrice M.*, *supra*, 29 Cal.App.4th at p. 1418.)

Substantial evidence supported the juvenile court’s finding that the bond between K.A. and J.M. did not constitute “a compelling reason for determining that termination [of parental rights] would be detrimental to” J.M. (§ 366.26, subd. (c)(1)(B).) By the time of the section 366.26 hearing, J.M. had been living happily in J.G.’s home for three years, and under her legal guardianship for two. He enjoyed being there and wanted to stay. Furthermore, she had fostered his visitation with K.A., Ja.M., and the extended biological family, and explained how she would do even more along those lines after adoption. He looked to her to meet his needs. (*Zachary G.*, *supra*, 77 Cal.App.4th at p. 811.) He was entitled to the stability and permanence that only adoption could provide. (*S.B.*, *supra*, 164 Cal.App.4th at p. 297 [if dependent child adoptable, strong preference for adoption over alternative permanent plans].)

On the other hand, K.A. had been absent from his life for a long time after she lost custody of him. Even though she had belatedly reestablished contact and they enjoyed their visits, by J.M.’s account she functioned more as a playmate than a parent during those visits. Thus, their bond was not so emotionally significant as to suggest it “promote[d] the well-being of [J.M.] to such a degree as to outweigh the well-being [he] would gain in a permanent home with [J.G.]” (*Beatrice M.*,

*supra*, 29 Cal.App.4th at p. 1418; *Autumn H.*, *supra*, 27 Cal.App.4th at p. 575.)

Furthermore, K.A.'s testimony suggested that the failure to terminate her parental rights could have been detrimental to J.M. By saying that he needed to be home with her, she seemed to reject the reality that only adoption or a continued legal guardianship was then possible. By saying that she approved of J.M. staying with J.G. only so long as J.G. did not try to adopt him, and that now K.A. did not even know whether she would want J.G. to remain his legal guardian if the adoption did not go through, K.A. threatened to pit herself against J.G. And by openly disapproving J.G.'s failure to take J.M. to church, K.A. hinted that she might try to interfere in and disrupt J.G.'s relationship with J.M. Thus, to allow K.A.'s parental rights to continue might well have been harmful to J.M.

K.A. relies mainly on *S.B.*, *supra*, 164 Cal.App.4th 289. Her reliance is misplaced.

In *S.B.*, the minor, five years old at the time of the selection and implementation hearing, had lived with her father for the first three years of her life. (*S.B.*, *supra*, 164 Cal.App.4th at pp. 293, 295.) After he lost custody, he visited her two or three days a week. (*Id.* at pp. 294, 295.) The social worker found that the father had made "consistent efforts to alleviate and[/]or mitigate the reasons his family was brought to the attention of the court." (*Id.* at p. 294.) At first, S.B. became upset when her father's visits ended and wanted to leave with him. (*Ibid.*) Later, however, social

workers opined that S.B. looked more to her grandmother, with whom she had lived since removed from her parents' custody, than to her father for parenting. (*Id.* at p. 295.) However, during a bonding study of the father-child relationship done for the selection and implementation hearing, S.B. spontaneously said she wished she lived with him and her mother. (*Ibid.*)

The appellate court reversed the juvenile court's order terminating parental rights, finding: (1) "S.B. derived comfort, affection, love, stimulation and guidance from her continued relationship with [her father]"; (2) her significant relationship with her grandmother did not negate the harm that the loss of her relationship with her father would cause; and (3) her grandparents' willingness to let the father continue to visit her was "an unenforceable promise" which did not outweigh the strength of the parent-child relationship and the harm caused by terminating it. (*S.B., supra*, 164 Cal.App.4th at p. 300.)

J.M. is much older than the minor in *S.B.* He did not have the uninterrupted relationship with K.A. that the minor in *S.B.* had with her father. Even when K.A. reappeared in his life, her relationship with J.M. during visits was more like that of a playmate than a parent. By the time of the section 366.26 hearing, J.G. was the only person who functioned as a parent to him. His testimony showed that so long as he could go on seeing K.A. as before, he did not crave closer or more frequent contact. And while J.G.'s promise to continue fostering visitation with K.A. and the rest of J.M.'s biological family



might be unenforceable, there is every reason to find it credible. Thus, *S.B.* does not support *K.A.*'s position.

## II

*K.A.* contends that the sibling relationship exception to adoption applies. (§ 366.26, subd. (c)(1)(B)(v).) As *K.A.* acknowledges, her trial counsel did not expressly raise this exception below; however, the trial court considered it in its ruling and found it inapplicable.<sup>4</sup> We therefore reach the merits. Like the trial court, we find that no substantial evidence supports the applicability of this exception.

The sibling relationship exception to adoption applies if "[t]here would be substantial interference with a child's sibling relationship, taking into consideration the nature and extent of the relationship, including, but not limited to, whether the child was raised with the sibling in the same home, whether the child shared significant common experiences or has existing close and strong bonds with a sibling, and whether ongoing contact is in the child's best interest, including the child's long-term emotional interest, as compared to the benefit of legal permanence through adoption." (§ 366.26, subd. (c)(1)(B)(v).) A parent appealing the termination of parental rights has standing to raise this exception. (*In re Erik P.* (2002) 104 Cal.App.4th 395, 402.)

---

<sup>4</sup> Even though counsel did not cite the exception in closing argument, he impliedly invoked it by presenting evidence which was relevant only to this exception: the stipulation as to how *Ja.M.* would have testified if called as a witness.

Substantial evidence supports the juvenile's court's findings that the relationship between J.M. and Ja.M. was not that close and that adoption would not interfere with it. The brothers had been placed separately almost from the start because Ja.M.'s severe psychological problems required him to be in a supervised group home setting. By the time of the section 366.26 hearing, he had apparently had been placed outside the county. Logistics alone necessarily made visits infrequent. J.M. testified that he although he enjoyed seeing his brother and planned to go on doing so, he did not feel a need to see him more often than he had been doing and did not confide in him. Finally, J.G. has tried to facilitate visitation between the brothers all along and has promised to take specific steps to do even more in the future. There is no evidence that the mere change in J.M.'s legal situation from guardianship to adoption could have a negative impact on the sibling relationship.

But even if there might be substantial interference with the sibling relationship, this does not decide the question: the juvenile court must then "'weigh the child's best interest in continuing that sibling relationship against the benefit the child would receive by the permanency of adoption.'" (*In re Daisy D.* (2006) 144 Cal.App.4th 287, 293.) Because, as the court found, the relationship was not that close and adoption would not interfere with it, this weighing process favors the benefit J.M. would receive from adoption.

### III

Lastly, we consider K.A.'s contention that the following exception to adoption applies which neither trial counsel nor the trial court considered: "A child 12 years of age or older objects to termination of parental rights." (§ 366.26, subd. (c)(1)(B)(ii).)<sup>5</sup> If this contention is forfeited because trial counsel did not raise it, K.A. contends in the alternative that counsel's failure to do so was ineffective assistance. We are not persuaded.

Because K.A. did not raise this exception at the hearing, it is forfeited. (*In re Daisy D.*, *supra*, 144 Cal.App.4th at p. 292.) In any event, it is meritless.

K.A. concedes that J.A. testified he wanted to be adopted, but claims he did so only because he misunderstood the consequences. She quotes the following exchange: "Q: Do you understand that once you're adopted you'll still be able to see your mom? [¶] A: Yeah." From this snippet she infers: J.M. believed adoption would guarantee his right to continue seeing her; the record does not show he was advised that this might not be the case; if he had been so advised, "it is reasonably

---

<sup>5</sup> K.A. wisely does not rely on the objection to J.M.'s adoption by Ja.M., who was over 12 years old at the time of the hearing. The Legislature could not have intended section 366.26, subdivision (c)(1)(B)(ii) to permit a minor to veto his sibling's adoption. (See *In re Clifton B.* (2000) 81 Cal.App.4th 415, 426-427 [sibling's wishes not a consideration at § 366.26 hearing].)

probable his testimony would have been different and he would have objected to the adoption." This argument borders on the frivolous. Section 366.26, subdivision (c)(1)(B)(ii) requires an actual objection by the minor, not speculation that under some counterfactual hypothesis unsupported by the record the minor *might* have objected.

K.A. relies on *In re Christopher L.* (2006) 143 Cal.App.4th 1326 (*Christopher L.*). This case supports our conclusion.

In *Christopher L.*, as here, the minor "repeatedly asserted his preference for adoption." (*Id.* at p. 1334.) Although he said he would not want adoption if it meant he could never see his mother again, this was not an unequivocal objection to the termination of parental rights, but merely showed "an internal conflict between his hope to be adopted and live in a stable and loving environment, and his hope to see [his mother] again"; despite this internal conflict, substantial evidence supported the juvenile court's finding that the minor wanted to be adopted. (*Id.* at p. 1335.) Here, the record does not even show that J.A. suffered such an "internal conflict." There was not merely substantial evidence but overwhelming evidence that he wanted to be adopted.

Because all the evidence before the juvenile court showed that J.A. eagerly sought adoption, K.A.'s counsel could not reasonably have opposed the termination of parental rights on the ground that J.A. objected to adoption. Counsel's failure to raise this claim was not ineffective assistance. (See *Lowry v.*

*Lewis* (9th Cir. 1994) 21 F.3d 344, 346 [frivolous argument could  
forfeit counsel's credibility].)

DISPOSITION

The judgment (order after hearing) is affirmed.

\_\_\_\_\_  
NICHOLSON, J.

We concur:

\_\_\_\_\_  
BLEASE, Acting P. J.

\_\_\_\_\_  
CANTIL-SAKAUYE, J.